

Quick Summary of the Draft Counselor Certification and Licensing Language:

- Establishes counselor certification and licensing in the Department of Alcohol and Drug Programs (ADP)
- Four levels of counselors:
 - Certified Alcohol and Other Drug Counselor (CAODC)
 - 350 education hours plus GED or Associate's degree
 - 250 supervised experience
 - 2,080 hours work experience
 - CAODC – Advanced
 - Bachelor's degree or 10,000 hours work experience
 - 400 hours supervised experience
 - 2,080 hours work experience
 - CAODC – Clinical Supervisor
 - Bachelor's degree and education specific to clinical supervision
 - 400 hours supervised experience
 - 2,080 hours work experience
 - Licensed Alcohol and Other Drug Counselor
 - Master's degree and education specific to clinical supervision
 - 2,000 hours supervised experience
 - 6,000 hours work experience
- All counselors
 - Test – IC&RC or as approved by ADP
 - Criminal Background Check
 - Parallels Proposition 36 eligibility for non-violent drug offenses – 5-year wash-out
 - Excludes violent felonies (Penal Code 667.5) except robbery and burglary
 - Excludes felony DUI for 10 years
- Certified Counselors may work in programs licensed or certified by ADP
- Licensed Counselors may establish an independent practice
- Curriculum
 - Addiction Counseling Competencies – TAP 21
 - Competencies for Substance Abuse Treatment Clinical Supervisors – TAP 21-A
- Defines unprofessional conduct and clarifies ADP's authority for discipline
- Establishes fees to support counselor certification and licensing
- Continuing Education – 40 hours
- Registration of person seeking certification or licensure
- Provisional certification of counselors now certified or registered

[Add Part 4 to Division 10.5 of the Health and Safety Code, commencing with section 11975.01:]

11975.01. Short Title

This part shall be known and may be cited as the Alcohol and Other Drug Counselors Licensing and Certification Law. It shall be liberally construed to achieve its objectives.

11975.02. *The Department of Alcohol and Drug Programs, hereinafter referred to as the department, shall administer and enforce this law.*

11975.03. Authority and Power

In order to carry out the provisions of this part, the department shall do, but shall not be limited to, all of the following:

(a) Adopt rules and regulations in to implement this part. In order to carry out the provisions of this part, the department may adopt rules and regulations as necessary to administer and enforce the provisions of this part. The adoption, amendment, repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) Part 1 of Division 3 Title 2 of the Government Code.

(b) Develop standards for certification and licensure of alcohol and other drug counselors, including those persons presently certified pursuant to regulations adopted by the department, so that they have an opportunity for certification or licensure under this part with appropriate credit for the education, training, and experience obtained prior to the department's implementation of this part. The department shall establish standards for multiple levels of alcohol and other drug counselors and may establish subspecialties with distinct requirements.

(c) Issue certificates and licenses and registrations beginning January 1, 2011, to those who meet the qualifications of this part and any regulations promulgated pursuant to this part.

(d) Take disciplinary action against counselors where appropriate, including, but not limited to, reprimand or probation, suspension, or revocation of the license, certificate or registration, issuance of administrative citations or imposition of administrative fines not to exceed Five Thousand Dollars (\$5,000), or any combination of these.

(e) Establish continuing education requirements.

(f) Establish procedures for the receipt, investigation, and resolution of complaints.

(g) Establish criteria to determine whether the curriculum of an educational institution satisfies the requirements imposed by this part.

(h) Establish parameters of unprofessional conduct that are consistent with generally accepted ethics codes for the profession.

(i) Establish reinstatement procedures for an expired or revoked certificate or license.

(j) Establish registration and supervision requirements for registrants, including those persons presently registered pursuant to regulations adopted by the department, so that they have an opportunity for registration, certification and licensure under this part with appropriate credit for the education, training, and experience obtained prior to the department's implementation of this part.

(k) Develop or adopt one or more examinations for administering to prospective licensees. The test may be administered by the department or by any public or private entity selected by the department.

(l) Maintain a database of certified and licensed counselors and registrants including the individual's status, any public record of discipline, and such other information as the department may require.

(m) The department may enter into an agreement with any government agency or other entity, public or private, to perform any portion of this part.

11975.04. Definitions

For purposes of this part, the following terms have the following meanings:

(a) *"Certified alcohol and other drug counselor" or "CAODC" means a person certified by the department pursuant to section 11975.06(a) to practice alcohol and drug counseling under clinical supervision in a program licensed or certified by the department under Division 10.5.*

(b) *"Certified alcohol and other drug counselor – Advanced" or "CAODC-A" means a person certified by the department pursuant to section 11975.06(b) to practice alcohol and drug counseling in a program licensed or certified by the department under Division 10.5.*

(c) *"Certified alcohol and other drug counselor – Clinical Supervisor" or "CAODC-CS" means a person certified by the department pursuant to section 11975.06(c) to practice alcohol and drug counseling in a program licensed or certified by the department under Division 10.5., and who may provide clinical supervision to registrants, CAODCs and CAODC-As.*

(d) *"Licensed Alcohol and Other Drug Counselor" or "LAODC" means a person licensed by the department pursuant to section 11975.07 to practice alcohol and other drug counseling, and who may provide clinical supervision to any other person licensed, certified or registered under this part and who may maintain an independent counseling practice.*

(e) *"Clinical supervision" means the ongoing process in which the supervisor participates with one or more supervisees to ensure quality care, as described in more detail in "Competencies for Substance Abuse Treatment Clinical Supervisors," Technical Assistance Publication Series No. 21-A, 2007, published by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment, or such other sources as the department may specify by regulation.*

(f) *"Advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting, Internet or any other electronic medium.*

(g) *"Registrant" means an uncertified or unlicensed person who is in the course of completing the requirements for certification or licensure under this part and is registered with the department who has completed no less than 12 semester units or 18 quarter units of the education required under this part.*

11975.05. Persons Previously Certified or Registered

(a) *The department shall provisionally certify as a Certified Alcohol and Other Drug Counselor each person whom the department determines was certified as a counselor, on the effective date of this part, in accordance with regulations of the department in effect immediately prior to the effective date of this part.*

(b) *Provisional certification shall be in force for at least two but not more than four years, as the department may determine by regulation.*

(c) *The department may withdraw or condition a provisional certification for any reason for which it could deny, suspend, revoke or condition a registration, certificate or license under this part.*

(d) *The department may specify by regulations conditions under which eligible persons may be provisionally certified at the level of Certified Alcohol and Other Drug Counselor – Advanced or Certified Alcohol and Other Drug Counselor – Clinical Supervisor.*

(e) *The department shall specify by regulation the conditions under which persons registered to become certified, pursuant to the department's regulations in effect immediately*

prior to the effective date of this part, may be eligible to be registered or certified under this part and receive appropriate credit for education, supervised experience and work experience previously completed.

(f) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

11975.06. Qualifications for Certified Alcohol and Other Drug Counselors

(a) On or after January 1, 2011, the department shall issue CAODC certificates to persons who meet all of the following requirements:

(1) Meets one or more of the following:

(A) Completes 350 hours of education as specified in section 11975.08 and possesses a high school diploma or GED, or

(B) Possesses an earned Associate of Arts, Associate of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.

(2) Passes the test specified in section 11975.09.

(3) Completes 250 hours of supervised experience as specified in section 11975.10.

(4) Completes 2,080 hours of work experience as specified in section 11975.11.

(5) Submits to a state and federal level criminal offender record information search and passes both background checks as specified in section 11975.29.

(6) Pays the required fees as set by the department.

(7) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC.

(b) On or after January 1, 2011, the department shall issue CAODC-A certificates to persons who meet all of the following requirements:

(1) Meets either of the following:

(A) Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education, or

(B) Completes 10,000 hours of work experience as specified in section 11975.11, within a period not exceeding 10 years prior to the date the application for certification was filed and possesses a high school diploma or GED.

(2) Meets all of the requirements of subdivision (a)(2) through (a)(6) of this section, plus the following additional requirements:

(A) Completes an additional 150 hours of supervised experience as specified in section 11975.10, and

(B) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC-A.

(c) On or after January 1, 2011, the department shall issue CAODC-CS certificates to persons who meet all of the following requirements:

(1) Meets both of the following:

(A) Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of

Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education, and

(B) Completes a course of education as specified in section 11975.30(b)(3) specifically directed to the competencies of clinical supervision.

(2) Meets all of the requirements of subdivision (b)(2)(A) of this section, plus the following additional requirements:

(A) Completes an additional 150 hours of supervised experience as specified in section 11975.10, and

(B) Completes the application for a certificate and satisfies all other requirements of this part for certification as a CAODC-CS, including any additional requirements specified by the department related to clinical supervision.

11975.07. Qualifications for Licensed Alcohol and Other Drug Counselor

On or after January 1, 2011, the department shall issue LAODC licenses to persons who meet all of the following requirements:

(1) Meets both of the following:

(A) Possesses an earned Master of Arts, Master of Science in alcohol and drug counseling, psychology or social work, or other major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education; and

(B) Completes a course of education as specified in section 11975.30(b)(3) specifically directed to the competencies of clinical supervision.

(2) Passes the test specified in section 11975.09.

(3) Completes 2,000 hours of supervised experience as specified in section 11975.10.

(4) Completes 6,000 hours of work experience as specified in section 11975.11.

(5) Submits to a state and federal level Criminal Offender Record Information Search and passes both background checks as specified in section 11975.29.

(6) Pays the required fees as set by the department.

(7) Completes the application for a license and satisfies all other requirements of this part for licensure as a LAODC.

11975.08. Certification curriculum requirements

The education required by sections 11975.06 and 11975.07 shall meet these requirements;

(a) The curriculum shall include:

(1) "Addiction Counseling Competencies," Technical Assistance Publication Series No. 21, 2006, published by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment,

(2) "Competencies for Substance Abuse Treatment Clinical Supervisors," Technical Assistance Publication Series No. 21-A, 2007, published by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, and

(3) Other materials, sources and requirements in addition to or in lieu of the above, including but not limited to more specific subject matter requirements, as the department may specify by regulation.

(b) The education shall be provided by:

(1) An institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education, or

(2) Other providers as approved by the department, whether individually, through accreditation by another entity recognized by the department or otherwise as the department may specify by regulation.

11975.09. Examination requirements

The test required by sections 11975.06 and 11975.07 shall be:

(a) The written examination offered by the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc., an organization comprised of domestic and international organizations involved in credentialing and licensing alcohol and other drug counselors or

(b) Such alternate or additional test or tests as the department may develop, or

(c) Such alternate or additional tests or tests as the department may recognize, whether individually, through accreditation by another entity recognized by the department, or otherwise as the department may specify by regulation.

11975.10. Supervised experience criteria

The supervised experience required by sections 11975.06 and 11975.07 shall meet the following criteria:

(a) The required supervised experience may be gained under the Clinical supervision of a CAODC-CS or a LAODC, or another licensed mental health professional specified by the department by regulation. This experience shall consist of the following:

(1) A minimum of 70 % of the required hours shall be face-to-face individual or group counseling provided to clients in the context of alcohol and other drug services, unless the department modifies this requirement by regulation.

(2) A maximum of 30% of the required hours may be in case management, client-centered advocacy, consultation, evaluation, and research, unless the department modifies this requirement by regulation.

(3) The required hours of supervised experience shall be obtained over a period of not less than one year and shall have been gained within the six years immediately preceding the date on which the application for certification or licensure was filed.

(4) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of alcohol and other drug counseling services being provided. Consultation or peer discussion shall not be considered to be supervision. "Supervisee" means a registrant or certified or licensed counselor under this Act, as the case may be, who is seeking to meet the supervised experience requirements of this Act.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements for supervisors as established by the department by regulation.

(2) A supervisee shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face counseling is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision, addressing the substance of the supervisory plan required by subdivision (d).

(d) The supervisor and the supervisee shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and

regulations. The supervisee shall submit to the department the initial original supervisory plan upon application for licensure or certification.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides alcohol and other drug counseling.

(2) Provides oversight to ensure that the supervisee's work at the setting meets the experience and supervision requirements set forth in this part and is within the scope of practice for the profession as defined in section 11975.14.

(f) Experience shall not be gained until the applicant has been registered as a supervisee.

(g) A supervisee may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to supervisees.

(h) Supervisees shall not do the following:

(1) Receive any remuneration from patients or clients, and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(i) A supervisee may receive supervision from a person not employed by the supervisee's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the supervisee's alcohol and other drug counseling.

(j) Notwithstanding any other provision of law, supervisees shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

(k) The department may limit by regulation the number of registrants that any one supervisor may supervise the number of registrants that may be supervised in any given program or setting, and the proportion of the workforce in any given program or setting which may be comprised of registrants, or any of these.

11975.11. Work experience criteria.

The supervised experience required by sections 11975.06 and 11975.07 shall meet the following criteria:

(a) Not more than 40 hours of work in any seven consecutive days shall be recognized.

(b) No hours of experience may be gained more than six years prior to the date the application for registration, certification or licensure, as applicable, was filed, except as provided in section 11975.06(b)(1)(B).

(c) All work experience shall be at all times under the supervision of a person authorized to provide clinical supervision pursuant to this part, who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the department for compliance with all laws, rules, and regulations governing the practice of alcohol and other drug counseling. Supervised experience shall be gained either as an employee or as a volunteer. Experience shall not be gained as an independent contractor.

(1) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified.

(2) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(d) Work experience may be completed in any setting that meets all of the following:

(1) Lawfully and regularly provides alcohol and other drug counseling.

(2) Provides oversight to ensure that the registrant's work at the setting meets the requirements set forth in this part.

(3) Experience may be gained solely as part of the position for which the individual volunteers or is employed. Employers are encouraged to provide fair remuneration to registrants.

(e) Except to the extent that the department provides otherwise by regulation, all persons shall register with the department in order to be credited for the work experience necessary for licensure or certification.

(f) Registrants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

11975.12. Nothing in this part shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Act (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

11975.13. Exceptions

(a) This part shall not apply to the following, provided that this exception shall not preclude the department from considering any conduct in any setting in its determination of fitness for registration, certification or licensure or in any disciplinary matter:

(1) A person who engages in the practice of alcohol and drug counseling exclusively:

(A) For in-custody services of the California Department of Corrections and Rehabilitation

(B) As an employee or volunteer of the State of California, or

(C) As an employee or volunteer of an agency of the United States government.

(2) A person who is an unpaid member of a peer or self-help group who performs peer group or self-help activities if the person does not use a title stating or implying that he or she is a licensed alcohol and drug counselor or any other designation listed in 11975.16.

(3) A cleric or other religious leader who provides advice and guidance to members of his or her congregation or order free of charge.

(4) A director, officer, or staff member of a program described in Section 8001 of the Penal Code.

11975.14. Scope of practice

An individual licensed or certified may engage in the practice of alcohol and drug counseling. For purposes of this part, the "practice of alcohol and drug counseling" means performing any of the following services for the purpose of treating alcohol and drug abuse:

(1) Initial intake.

(2) Assessment.

(3) Orientation.

(4) Treatment planning.

(5) Alcohol and drug counseling, including individual, group, and significant others.

(6) Case management.

(7) Crisis intervention.

(8) Client education.

(9) Referral.

(10) Reports and recordkeeping.

(11) Consultation with other professionals with regard to client treatment or services.

(b) A counselor or registrant may perform the acts listed in this section only for the purpose of treating alcohol and other drug problems.

11975.15. Scope, form and content of License and Certificate

The department shall issue a license or certification to each applicant meeting the requirements of this part, which license or certification permits the holder to engage in alcohol and other drug counseling as defined in Section 11975.14 entitles the holder to use the title of licensed or certified alcohol and other drug counselor, as applicable, and authorizes the holder to hold himself or herself out as qualified to perform the functions delineated by this part, subject to any limitations relating to the level of the license or certification or other conditions which may be imposed by the department. The form and content of the license or certification shall be determined by the department.

11975.16. Necessity of license or certification; unauthorized representation as misdemeanor

An individual who has received a certificate or license under this part may use the title "Certified Alcohol and Other Drug Counselor" or "CAODC," "Certified Alcohol and Other Drug Counselor – Advanced" or "CAODC-A," "Certified Alcohol and Other Drug Counselor – Clinical Supervisor" or "CAODC-CS," or "Licensed Alcohol and Other Drug Counselor" or "LAODC," in accordance with the type of certificate or license possessed. Every individual who styles himself or herself or who holds himself or herself out to be a certified or licensed alcohol and other drug counselor, or who uses any words or symbols indicating or tending to indicate that he or she is a certified or licensed alcohol and other drug counselor, without holding his or her license in good standing under this part, is guilty of a misdemeanor.

11975.17. Need for current valid license or certification

It is unlawful for any person to engage in the practice of alcohol and other drug counseling unless at the time of so doing such person holds a valid, unexpired, and unrevoked certificate or license under this part.

11975.18. Unprofessional conduct

The department may deny, revoke, suspend or impose conditions upon a license, certification or registration for unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime which permits denial of a license, certification or registration pursuant to Section 11975.29.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application submitted to the department, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance as defined in section 4021 of the Business and Professions Code, or using any of the dangerous drugs or devices specified in section 4022 of the Business and Professions Code or using any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this part, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the counseling authorized by the registration or license. The department may deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use a controlled substance as defined in Section 4021 of the Business and Professions Code Professions Code, a dangerous drug or device specified in Section 4022 of the Business and Professions Code or alcohol in the course of performing alcohol and other drug counseling. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000 of the Business and Professions Code) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of alcohol and other drug counseling.

(e) Violating, attempting to violate, or conspiring to violate this part or any regulation adopted by the department.

(f) Misrepresentation as to the type or status of a license, certification or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any counselor or registrant, or applicant for a license or registration, or, in the case of a counselor, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed, uncertified or unregistered person to engage in conduct for which a license, certification or registration is required under this part.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a counselor or registrant.

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an alcohol and other drug counselor.

(l) Performing, or holding oneself out as being able to perform, or offering to perform or permitting any licensee under supervision to perform any professional services beyond the scope of the license authorized by this part.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, including but not limited to Code of Federal Regulations, Title 42, Part 2.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising or using a name in a manner that is false, misleading, or deceptive.

(q) Any conduct in the supervision of any individual licensed, certified or registered herein that violates this part or any rules or regulations adopted by the department.

(r) Failure to keep records consistent with sound professional judgment, the standards of the profession, and the nature of the services being rendered.

(s) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(t) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(u) Willful denial of access to client records as otherwise provided by law.

11975.20. Decision containing finding that counselor or registrant engaged in sexual contact with client or former client; order of revocation

The department shall revoke any license, certification or registration issued under this part upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the counselor or registrant engaged in any act of sexual contact, as defined in Section 729 of the Business and Professions Code when that act is with a client, or with a former client when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the department.

11975.21. Disciplinary action by another state or agency

The department may deny any application, or may suspend or revoke any license, certification or registration issued under this part, for denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory of the United States, or by any other governmental agency, on a license, certificate, or registration to practice alcohol and other drug counseling or any other healing art. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

11975.22. Immediate Temporary Suspension

The director may temporarily suspend any license, certification or registration prior to any hearing when, in the opinion of the director, the action is necessary to protect any client from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall give notice of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve an accusation. Upon receipt of a notice of defense to the accusation, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the need for the temporary suspension to remain in place pending resolution of the accusation. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the hearing, if the director hears the matter personally or within 30 days after the department receives the proposed decision from the Office of Administrative Hearings, if the matter is heard by a hearing officer.

11975.23. Appeal rights

(a) Any individual licensed, certified or registered by the department under this part has the right to appeal any adverse decision of the department with regard to his or her license, certificate or registration.

(b) Unless and until the department specifies additional or different due process provisions by regulation, appeals shall be determined in accordance with Chapter 5 (commencing with Section 11500) Part 1, Division 3, Title 2 of the Government Code.

11975.24. Disciplinary terms

The department may impose reasonable terms, conditions or restrictions on a disciplinary action to protect the health, safety and welfare of the public.

11975.25. Reinstatement of a revoked license or certification, reduction of disciplinary terms

An individual who wants reinstatement of a license or certification, or a reduction of discipline may apply for reinstatement or reduction pursuant to Government code sec. 11522.

11975.26. The Alcohol and Other Drug Counselors Trust Fund

The Alcohol and Other Drug Counselors License Fund is hereby established in the State Treasury. All fees and fines collected by the department in accordance with this part shall be deposited in this fund. The money in the fund shall be available upon appropriation from the Legislature for the purpose of supporting the counselor licensing activities of the department.

11975.27. Application and examination fees

(a) Until such time as the department establishes different fees by regulation, the department shall assess the following fees relating to the licensure, certification or registration of alcohol and other drug counselors:

(1) The application fee for registration as a registrant shall be seventy-five dollars (\$75).

(2) The fee for renewal of a registration shall be seventy-five dollars (\$75).

(3) The fee for application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for a written examination administered by or on behalf of the department shall one hundred fifty dollars (\$150). The fee for an oral examination, if any, administered by or on behalf of the department, shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) This subdivision shall not establish or limit the examination fee charged for the examination recognized in section 11975.09(a) or any other examination that is recognized by the department but not administered by or on behalf of the department.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license or certification shall one hundred fifty-five dollars (\$155).

(7) The fee for license or certification renewal shall be one hundred fifty-five dollars (\$155).

(8) The fee for inactive license or certification renewal shall be seventy-seven dollars and fifty cents (\$77.50).

(9) The renewal delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license or certification to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for department review of the criminal records information shall be thirty dollars (\$30).

(13) The fee for the state level Criminal Offender Record Information Search shall be set by the Department of Justice and the fee for the federal level Criminal Offender Record Information Search shall be set by the Federal Bureau of Investigation.

(b) The department may establish fees based on other categories or classifications that the department deems necessary or convenient to maintain an effective and equitable fee structure. Unless funds are specifically appropriated from the General Fund in the annual Budget Act or other legislation to support the activities of the department pursuant to this part, such activities shall be supported entirely by federal funds and special funds.

11975.28. Fee for reexamination

An applicant who fails a written or oral examination administered by or on behalf of the department may within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all required fees.

11975.29. Background check

(a) An applicant for a license, certification or registration under this part shall consent to a state and federal level Criminal Offender Record Information search as part of a criminal history background check. Refusal to consent to the criminal history background check, as delineated in this section, shall result in denial of the license, or certification or registration.

(b) In addition to the persons specified in subdivision (a), this section also applies to all employees and volunteers of programs, facilities, or services licensed or certified by the department, who may have unsupervised contact with clients.

(c) The following procedure shall be followed for Criminal Offender Record Information searches:

(1) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all alcohol and other drug counselor licensure, certification or registration applicants, as defined by section 11975.04, and all employees and volunteers of programs, facilities, or services licensed or certified by the department, who may have unsupervised contact with clients for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her recognizance pending trial or appeal.

(2) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the department.

(3) The Department of Justice shall provide a response to the department pursuant to paragraph (1) of subdivision (p) of section 11105 of the Penal Code.

(4) The department shall request from the Department of Justice subsequent arrest notification service, as provided pursuant to section 11105.2 of the Penal Code, for persons described in paragraph (1).

(5) The Department of Justice shall charge fees sufficient to cover the cost of processing the request described in this section. The applicant shall be responsible for payment of these fees.

(6) The applicant shall pay the fingerprint image rolling - electronic submission fee charged by the Live Scan device operator.

(d) Before issuing a registration, certification or license to an individual defined by subdivision (a) or a clearance to an individual defined in subdivision (b), the department shall ensure that the state and federal level criminal history of the applicant is reviewed.

(e) The department shall deny or revoke a license, certification or registration to an individual if at the time of the department's determination the person would be ineligible to be sentenced to probation pursuant to Penal Code Section 1210.1, subject to the following conditions:

(1) The department shall treat its date of determination as equivalent to the date of conviction of a nonviolent drug possession offense under Penal Code Section 1210.1.

(2) The department shall apply the five-year clearing period in Penal Code Section 1210.1(b)(1) to all of the exclusions described in Penal Code Section 1210.1(b).

(f) Notwithstanding the provisions of subdivision (e) above, and unless the individual concerned has obtained a certificate of rehabilitation as provided in Penal Code Section 4852.01, et seq., the department shall permanently deny or revoke a license, certification or registration to a person convicted of any violent felony as defined in Penal Code section 667.5(c), except:

(1) A person convicted of robbery, as specified in Penal Code section 667.5(c)(9) or burglary, as specified in Penal Code section 667.5(c)(21), is not excluded for this reason after a period of ten years in which the individual remained free of both prison custody and the commission of an offense that results in a felony conviction other than a nonviolent drug possession offense, or a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(g) Notwithstanding the provisions of subdivision (e) and (f) above, and unless the individual concerned has obtained a certificate of rehabilitation as provided in Penal Code Section 4852.01, et seq., the department shall permanently deny or revoke a license, certification or registration to a person convicted of driving under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, as specified in Vehicle Code section 23153, until a period of ten years has passed since that conviction, during which period the individual remained free of both prison custody and the commission of an offense that results in a felony conviction other than a nonviolent drug possession offense, or a misdemeanor conviction involving physical injury or the threat of physical injury to another person.

(h) The department may establish by regulation additional criteria to implement this subdivision, which may include but not be limited to standards, exemptions, and terms of rehabilitation, and may include rebuttable presumptions with regard to any of those.

(i) This section shall not become operative until July 1, 2010.

11975.30. License renewal, delinquency

(a) Licenses or certifications issued under this part shall expire no more than two years after the issue date. The expiration date of the original license or certification shall be set by the department.

(b) To renew an unexpired license or certification, the counselor shall, on or before the expiration date of the license or certification, complete the following actions:

(1) Apply for a renewal on a form prescribed by the department.

(2) Pay a two-year renewal fee prescribed by the department.

(3) Complete at least 40 hours of continuing education as approved by the department.

(4) Notify the department whether he or she has been convicted, as defined in section 11975.18(a) of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(c) To renew an expired license or certification within three years of its expiration, the counselor shall, as a condition precedent to renewal, complete all of the actions described in subdivision (b) and pay a delinquency fee.

(d) A license or certification that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the counselor may apply for and obtain a new license or certification if he or she satisfies all of the following requirements:

(1) No fact, circumstance, or condition exists that, if the license or certification were issued, would justify its revocation or suspension.

(2) He or she submits an application for examination eligibility.

(3) He or she takes and passes the current licensing examinations.

(4) He or she submits the fees for examination eligibility and for initial license or certification issuance.

11975.31. Display of license

A counselor shall display his or her license or certification in a conspicuous place in the counselor's primary place of Business. The current renewal receipt shall be displayed near the license

11957.32. Fictitious business name

A licensed alcohol and other drug counselor who conducts a private practice under a fictitious business name shall not use a name that is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

11975.33. Renewal of expired licenses or certifications

The department may renew an expired license for a former counselor who meets the following qualifications:

(a) Applies for renewal on a form prescribed by the department within three years of the expiration date of the license.

(b) Pays the renewal fees that would have been paid if the license had not been delinquent.

(c) Pays all delinquency fees.

(d) Completes the applicable continuing education requirements.

(e) Notifies the department whether he or she has been subject to, or whether another department or board has taken, disciplinary action since the last renewal.

11975.34. Renewal after expiration

A license or certification that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the former licensed or certified individual may apply for and obtain a new license or certification if all of the following are satisfied:

(a) No fact, circumstance, or condition exists that, if the license or certification were issued, would justify its revocation or suspension.

(b) He or she pays the fees that would be required if he or she were applying for a license, certification for the first time.

(c) He or she meets the current requirements for licensure or certification as a licensed or certified alcohol and other drug counselor under Sections 11975.06 or 11975.07.

11975.35. No practice while suspended

A suspended license or certification is subject to expiration and may be renewed as provided in this part, but the renewal does not entitle the counselor, while it remains suspended and until it

is reinstated, to engage in the activity to which the license or certification relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

11975.36. Reinstatement of a revoked license or certificate

An individual whose license or certificate has been revoked may apply for reinstatement pursuant to government code section 11522.

11975.37. Inactive license or certification

A licensed or certified alcohol and drug counselor may apply to the department to request that his or her license or certification be placed on inactive status. An individual who holds an inactive license or certification shall pay a biennial fee of one-half of the active renewal fee and shall be exempt from continuing education requirements specified in 11975.30 (b)(3), but shall otherwise be subject to this part and shall not engage in the practice of alcohol and drug counseling in this state. A counselor on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure or certification may, upon his or her request, have his or her license or certification to practice alcohol and drug counseling placed on active status. An individual requesting his or her license or certification to be placed on active status at any time between a renewal cycle shall pay the remaining renewal fees. An individual requesting to reactivate from an inactive status whose license or certification will expire less than one year from the date of the request shall be required to complete 20 hours of continuing education for license renewal. An individual requesting to reactivate from an inactive status whose license or certification will expire more than one year from the date of the request shall be required to complete 40 hours of continuing education for license or certification renewal.

11975.38. Change of address or name.

Any individual licensed or certified or registered under this section is required to:

- (a) Provide written notice to the department within 30 days of any change of address.
- (b) Provide written notice to the department within 30 days of a name change giving both the old and the new names along with a copy of the legal document authorizing the name change such as a court order or marriage license.

11975.39. Limitations period

(a) Except as otherwise provided in this part, an accusation filed pursuant to Section 11503 of the Government Code against an individual licensed certified or registered under the provisions the department administers and enforces shall be filed within three years from the date the department discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against an individual licensed certified or registered alleging the procurement of a license, certification or registration by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) An accusation alleging sexual misconduct shall be filed within three years after the department discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority.

(e) *The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the department due to an ongoing criminal investigation.*

(f) *For purposes of this section, "discovers" means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:*

(1) The date the department received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the department became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the department receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

11975.40. Persons from out of state; application of this part

Nothing in this part shall apply to any alcohol and other drug counselor from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association, or of an educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is at the time of the consultation, lecture, or demonstration licensed to practice alcohol and other drug counseling in the state or country in which he or she resides. These alcohol and other drug counselors shall not open an office or appoint a place to meet clients or receive calls from clients within the limits of this state.

11975.41. Experience gained outside of California; use towards licensing requirements

(a) Education, supervised experience and work experience gained outside of California may be accepted toward the licensure or certification requirements if it is substantially the equivalent of the requirements of this part.

(b) The department may issue a license or certification to any person who, at the time of application:

(1) has held a valid active alcohol and other drug counseling license or certification issued by a board of alcohol and other drug counseling examiners or corresponding authority of any state;

(2) passes the licensing examinations as specified in Section 11975.06 or 11975.07;

(3) pays the required fees;

(4) passes the required background check and;

(5) is not subject to denial of licensure under this part.

[Amend Penal Code section 11165.7 to conform:]

11165.7 (a) As used in this article, "mandated reporter" is defined as any of the following:

~~...~~
~~(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. A licensed, certified or registered alcohol and other drug counselor as defined in Division 10.5, Part 4 of the Health and Safety Code, commencing with section 11975.01. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.~~

. . .

[Amend Welfare and Institutions Code section 15630 to conform:]

15630 (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter. *A licensed, certified or registered alcohol and other drug counselor as defined in Division 10.5, Part 4 of the Health and Safety Code, commencing with section 11975.01 is also a mandated reporter.*

. . .